

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RUDOLPH LARUE

VS.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

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**C.A. NO. _____
(JURY)**

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant State Farm Mutual Automobile Insurance Company ("State Farm") files this Notice of Removal of the present action from the 11th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy. In connection with this Notice of Removal, State Farm would respectfully show unto the Court as follows:

I. Introduction

1. This lawsuit began on or about September 21, 2017, when Plaintiff Rudolph LaRue, filed his Original Petition in Cause No. 2017-62464 in the 11th Judicial District Court of Harris County, Texas, styled *Rudolph LaRue v. State Farm Mutual Automobile Insurance Company*. The suit arises from an automobile accident that occurred on October 3, 2015 in Harris County, Texas. Plaintiff seeks to recover uninsured/underinsured motorist benefits from State Farm.

2. State Farm was served with Plaintiff's Original Petition on October 3, 2017 and filed its Original Answer on October 30, 2017.

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties, and the Amount in Controversy Exceeds \$75,000

3. Removal is proper because there is complete diversity of citizenship between the parties, and the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a)(1).

4. Plaintiff is a resident and citizen of Texas. State Farm was and is incorporated in, and a resident of, the State of Illinois.

5. Plaintiff's Original Petition states "Plaintiff seeks monetary relief of over \$200,000 but not more than \$1,000,000;..." *See* Pl.'s Orig. Pet., p. 4. Thus, the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a)(1).

B. Venue is Proper in This Division and in This District.

6. Plaintiff filed this action in Harris County, Texas. The Houston Division of the Southern District of Texas encompasses Harris County, Texas. *See id.* § 124(b)(2). Thus, this district and division embrace the place where the state court action is pending. *See id.* § 1441(a).

III. Procedural Requirements for Removal

7. State Farm was served on October 3, 2017. This Notice of Removal is being filed on November 2, 2017. Accordingly, this Notice of Removal is timely filed within 30 days of when State Farm received Plaintiff's Original Petition and within one year of the commencement of this suit. *See id.* § 1446(b).

8. A copy of this Notice of Removal will be filed with the Harris County District Clerk's office and served on Plaintiff promptly. *See id.* § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005).

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the Southern District of Texas, this Notice of Removal is accompanied by the following documents:

Exhibit A: An index of matters being filed;

Exhibit B: The state court docket sheet, all executed process in the case, all pleadings asserting causes of action, all answers to such pleadings, and all orders signed by the state judge;

Exhibit C: A list of all counsel of record, including addresses, telephone numbers, and parties represented.

10. The filing fee has been paid to the Clerk.

11. The filing of this notice, along with the filing of the notice in the state court and service of the notice upon Plaintiff's counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the state court of all jurisdiction over these proceedings and claims.

IV. Prayer

12. State Farm prays that the above-styled action now pending in the 11th Judicial District Court of Harris County, Texas be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiff take nothing by his suit against State Farm, and for such other and further relief to which State Farm may be justly entitled.

13. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

14. A jury fee was paid in state court and Defendant hereby requests a jury trial in this cause of action.

Respectfully submitted,

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By: /s/ Barbara L. Hachenburg

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ATTORNEY-IN-CHARGE FOR DEFENDANT,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on known Filing Users will be automatically accomplished through the Notice of Electronic Filing. Counsel who are not Filing Users are receiving a true and accurate copy of the foregoing served via United States mail, first-class, postage pre-paid on this 2nd day of November, 2017.

David J. LaRue
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3220 Broadway Street
Houston, TX 77701

/s/ Barbara L. Hachenburg

Barbara L. Hachenburg